DOCUMENT RESUME

ED 326 821 CG 023 032

AUTHOR Remley, Theodore P., Jr.
TITLE "Preparing for Court Appearances." The AACD Legal Series, Volume 1.
INSTITUTION American Association for Counseling and Development, Alexandria, VA.
REPORT NO ISBN-1-55620-077-3; ISSN-1053-9549
PUB DATE 91
NOTE 65p.
AVAILABLE FROM American Association for Counseling and Development, 5999 Stevenson Ave., Alexandria, VA 22304 (Order No. 72020; $11.95).
PUB TYPE Guides - General (050)

EDRS PRICE MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS *Counselor Role; *Court Litigation; *Legal Problems; *Legal Responsibility; *Mental Health Workers
IDENTIFIERS *Court Witnesses

ABSTRACT

This monograph provides a thorough introduction to the adversarial legal process and explains how mental health professionals function as general witnesses within the system. Counselors who read this publication will understand their rights and responsibilities before they are drawn into the legal system. General questions and answers are included which provide counselors with guidance as they participate in legal proceedings. Specific guidelines for effective practice are given which will assist counselors when crises arise. A set of discussion questions is included for professors who wish to use this monograph as a foundation for classroom instruction or for practitioners who wish to share ideas with their colleagues. Readers are cautioned that this publication cannot substitute for personal legal advice regarding specific legal problems, and that the information and guidelines in the monograph are intended to be educational. A glossary of legal terms and sections focusing on counselors in court, the adversarial system, subpoenas, finding legal assistance, choosing a lawyer, consultation with attorneys, the reluctant expert, witness behavior, frequently asked questions, and guidelines for practice are included. Suggested readings and references are included. (NB)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED326821

"Preparing for Court Appearances"

Theodore P. Remley, Jr., JD, PhD

CG023032

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☒ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL IN MICROFICHE ONLY HAS BEEN GRANTED BY

W. Mark Hamilton

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

THE AACD LEGAL SERIES

Volume 1

"PREPARING FOR COURT APPEARANCES"

Theodore P. Remley, Jr., JD, PhD

American Association for
Counseling and Development

Copyright © 1991 by the American Association for Counseling and Development

All rights reserved.

American Association for Counseling and Development
5999 Stevenson Avenue
Alexandria, VA 22304

Cover design by Sarah Jane Valdez

Library of Congress Cataloging-in-Publication Data

American Association for Counseling and Development.
Preparing for court appearances/ Theodore P. Remley, Jr.
p. cm.—(AACD legal series)
Includes bibliographical references.
ISBN 1-55620-077-3
1. Mental health laws—United States. 2. Mental health personnel—Legal status, laws, etc.—United States. 3. Evidence, Expert—United States. 4. Witnesses—United States. 5. Mental health counseling—United States.
I. Title. II. Series.
KF3828.R46 1991
347.73'67—dc20
[347.30767] 90-43332
ISSN 1053-9549 CIP

AACD Legal Series Volume 1

Printed in the United States of America

To the memory of my father, Theodore P. Remley, Sr.

Contents

Biography vii
Preface 1
Glossary 5
Counselors in Court 9
The Adversarial System 13
Subpoenas 17
Finding Legal Assistance 23
Choosing a Lawyer 29
Consultation With Attorneys 35
The Reluctant Expert 39
Witness Behavior 43
Frequently Asked Questions 47
Guidelines for Practice 53
Summary 57
Discussion Questions 59
Suggested Readings 63
References 65

Biography

Theodore P. Remley, Jr., is Executive Director of the American Association for Counseling and Development. Immediately prior to assuming this position, Dr. Remley was chair of the Department of Counselor Education at Mississippi State University in Starkville. He holds a PhD from the Department of Counselor Education at the University of Florida in Gainesville and a JD in law from The Catholic University of America in Washington, DC. Dr. Remley has served as a school counselor, community college counselor, college student activities director, U.S. Army officer, university career counselor, and university counselor educator. In addition, he has maintained private practices in counseling and law. He is a licensed professional counselor and has chaired the counselor licensure boards in Virginia and Mississippi, is a member of the Florida and Virginia bars, and is a National Certified Counselor.

Preface

As a counselor and an attorney, I have had the opportunity to interact with a number of mental health professionals who were facing legal problems that led to their feeling frightened, confused, and often angry at the legal system. Although I have been able to give individual advice and assurance, it has become apparent to me that counselors need additional resources to help them deal with professional legal problems.

This is the first in a series of monographs on legal issues for counseling practitioners. The publications in this series are intended as practical references for those who regularly face legal issues in their practice. Instead of providing detailed analyses of the law or public policy, this series of monographs focuses on practical information and offers guidelines for practitioners.

The authors of the monographs in this series include individuals who have both a knowledge of law and an understanding of the counseling profession. Dual expertise is required to offer practical guidelines with sound legal foundations.

This first monograph is intended for counselors who find themselves involved in legal proceedings and need assistance in understanding the legal system, defining their roles, finding legal advice, and surviving the experience with their professional reputation and dignity intact. Another monograph focuses on situations in which counselors appear in court as expert witnesses.

I have chosen to begin this legal series with a monograph on court appearances because I believe it will serve as a foundation

for the topics covered in the other monographs. Legal problems counselors and other mental health professionals face often lead to interactions with attorneys as well as appearances at depositions, hearings, or trials. My experiences have indicated that counselors know very little about the legal process and too often feel as if they can handle legal situations without advice from lawyers. I hope this monograph will help counselors prepare for court appearances they have to make.

The formality of court proceedings, the frequent use of Latin terms and phrases, and the power of judges and court officials create an atmosphere that is intimidating to non-lawyers. If they were truthful, many attorneys would admit that court proceedings are intimidating to them as well. An anxious counselor who is confused or misguided may make serious mistakes that could lead to embarrassment or even ethical or legal complaints against the counselor.

One of the problems of counselors who become involved in court proceedings stems from their inappropriate involvement with clients based on the belief that they must support clients in all problem areas. Counselors often willingly become involved in their clients' legal problems, but becoming involved in court proceedings can lead to many problems for counselors.

The information regarding court appearances in this first monograph is appropriate for mental health professionals who practice in all settings. Counselors, social workers, psychologists, psychiatric nurses, and psychiatrists have faced many issues discussed in this publication. Counselors in schools, rehabilitation agencies, community mental health centers, psychiatric hospitals, substance abuse treatment facilities, colleges and universities, private practices, community agencies, and other settings are subject to subpoenas related to their professional responsibilities. All counselors need to develop an understanding of the legal system and their role as a potential witness.

This monograph provides a thorough introduction to the adversarial legal process and explains how mental health professionals function as general witnesses within the system. Counselors who read this publication will understand their rights and responsibilities before they are drawn into the legal system.

General questions and answers will provide counselors with guidance as they participate in legal proceedings. Finally, specific guidelines for effective practice will assist counselors when

crises arise. A set of discussion questions is included for professors who wish to use this monograph as a foundation for classroom instruction or for practitioners who wish to share ideas with their colleagues.

I am very appreciative of the suggestions and advice given to me by my three friends and colleagues who reviewed this monograph. I am indebted to Blair Brown, an attorney who maintains an active trial practice in Alexandria, Virginia; Gerald Corey, an expert in ethics and a professor at California State University at Fullerton; and Carl Swanson, an attorney and counselor educator at James Madison University in Harrisonburg, Virginia.

This entire series of monographs is intended to provide reference material for practicing counselors. It includes basic information, answers to questions, and guidelines which are specific in nature and practical in orientation. Counselors will be able to familiarize themselves with a variety of legal topics and will have a quick reference to consult when legal problems materialize.

A publication such as this cannot substitute for personal legal advice regarding specific legal problems. The information and guidelines in this monograph are intended to be educational. Mental health professionals are encouraged to consult attorneys regarding their legal problems.

Glossary

Adversarial System: This is the process our society has adopted to resolve disputes among citizens. Parties in a lawsuit present their points of view regarding a conflict to a judge or jury. Each adversary is expected to present his or her case in a vigorous and persuasive fashion. The role of an adversary is to convince the judge or jury that he or she is correct and that the other party is wrong.

Confidentiality: All counselors and other mental health professionals have an ethical duty not to reveal information related to them by clients. There are many exceptions to this responsibility for confidentiality.

Deposition: A deposition is a legal proceeding that allows attorneys to question outside the courtroom parties or witnesses regarding a lawsuit. A deposition is conducted by a lawyer who represents one of the parties in a lawsuit. Witnesses can be subpoenaed and therefore must attend depositions. Witnesses may bring their own attorneys. The attorney who represents the opposing party in the lawsuit must have notice of all depositions and may attend as well. The judge is not present at a deposition. Any procedural matters that cannot be agreed upon by the parties present at a deposition may need to be brought before the presiding judge in the case for resolution.

Discovery: The process whereby attorneys are given the legal right to find out all information related to a lawsuit before the trial begins.

Expert Witness: Individuals who have specialized knowledge or experience that could help a judge or jury in coming to a final decision in a lawsuit are called expert witnesses. Such a witness must first be acknowledged by the presiding judge as one who has specialized knowledge or expertise. Once the expert witness has been acknowledged, he or she may render expert opinions regarding matters in controversy at a hearing or trial. No specific standards have been established to determine whether a person has the proper background to serve as an expert witness. Each proposed expert witness is considered individually by each presiding judge.

General Witness: This term is not usually found in the literature. In this monograph, the term general witness is used to distinguish all other witnesses from expert witnesses. General witnesses may voluntarily testify in court or be compelled to testify. General witnesses may relate only factual information and may not give opinions.

Hearing: An event that takes place before a judge related to a legal controversy. A hearing is different from a trial in that the controversy is not finally resolved at a hearing.

Litigation: The process that follows the filing of a lawsuit in court. Litigation includes such proceedings as the review of evidence, hearings before a judge, and the trial itself.

Parties: A party in a lawsuit is the person who has filed the suit or the person against whom the suit has been filed.

Perjury: Parties to a lawsuit and witnesses who testify in court are required to swear under oath that they will tell the truth. Anyone who lies under oath can be charged with perjury. Perjury is a serious crime. Conviction of perjury, which is a felony conviction, can deprive citizens of their rights to vote, hold office, or hold professional licenses.

Privileged Communication: In some instances, oral and written communications between specific professionals and their clients are categorized as privileged, and judges may not com-

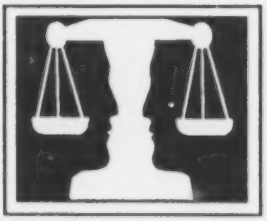
pel disclosure of the communications in a court of law. In order for a communication to be privileged, there must be a state statute that specifically identifies the communication between a category of professionals and their clients as privileged. The privilege belongs to clients and they may waive their privilege if they wish.

Records: Any written documents, audio or video recordings, or other tangible items that contain information related to a lawsuit.

Sanctions: Judges who preside at hearings or trials have a legal right to order witnesses and others to participate in the proceedings in an appropriate manner as dictated by law. If a judge's orders are disobeyed or ignored, the judge may find that individuals are in contempt of court and may sanction them. Sanctions may include incarceration in jail or a fine.

Subpoena: A subpoena is a court document that orders a person to appear in court for a hearing or trial or at another location to be questioned regarding a pending lawsuit. Persons receiving a subpoena must comply unless the subpoena is withdrawn or is overruled by a judge. The penalty for noncompliance could include incarceration in jail or a fine.

Subpoena Duces Tecum: This is a special kind of subpoena that requires a person to appear with his or her records.



Counselors in Court

Mental health professionals are increasingly involved in court proceedings. In some instances, counselors are offering their services as expert witnesses. Experts are paid to render professional opinions that assist judges and juries in making decisions. This specialty practice is covered in a separate monograph. This publication focuses on situations in which mental health professionals are drawn into court proceedings as a result of their professional responsibilities or against their will.

The most common circumstance in which counselors find themselves involved in legal proceedings is when they are asked by lawyers or judges to reveal records they have collected on behalf of clients or to testify regarding the content of interactions they have had with others. Because counselors have an ethical obligation to keep information learned in counseling relationships confidential, it usually is distressing to be asked or ordered to reveal that information. However, unless an interaction is protected by a privileged communication statute (Howell & Ogles, 1989), mental health professionals can be ordered to disclose confidential information. Another monograph in this series explores the concepts of confidentiality and privileged communication.

Counselors often discuss details with their clients that become the subject matter of litigation at a later date. Couples in marriage counseling frequently end up in divorce court; victims who suffer psychologically from physical injuries sometimes sue those who caused their injuries; clients who have been charged with

crimes are tried and sentenced; and individuals involved in custody disputes frequently go to court numerous times before a final decision is rendered. No matter where they work, those who counsel people could find themselves involved in court proceedings.

A legal issue that frequently leads to counselor involvement in court proceedings is reports of suspected child abuse (Hummel, Talbutt, & Alexander, 1985). Most counselors in all states are required by law to report situations in which they believe a minor is physically or psychologically abused. Counselors who make reports of suspected child abuse, or those who are counseling children or their families when such a report is filed by others, can expect to be involved in the legal system to some degree. Counselors often are interviewed by child protective services workers and police officers. In some instances, counselors are required to testify at hearings to determine whether minors should be removed from their homes, or if they have already been removed, whether they should be returned to the custody of their parents. In situations in which those accused of abusing a minor are charged with a crime, counselors may be required to discuss information they possess with prosecutors and may have to testify in criminal court. If civil suits are filed on behalf of the minor to collect damages from a perpetrator, counselors again could be called upon to talk with attorneys and testify in court. There is evidence (Russel, 1988) that mental health professionals and attorneys are experiencing role conflicts in cases of suspected child abuse. As a result, counselors need to be prepared for the legal process that follows a report of suspected child abuse.

Because many troubled marriages result in divorce proceedings and child custody hearings, marriage and family counselors are particularly susceptible to being forced to testify regarding their counseling sessions (Watkins, 1989). Even mental health professionals who have statutorily privileged relationships with their clients may have to testify if subpoenaed because legal privilege does not generally exist when there is more than one client interacting with a counselor.

Clients of counselors sometimes become involved in various civil lawsuits. Clients may sue others or be sued themselves because of personal injuries, job disputes, contract issues, real estate transactions, defamation of character situations, tax mat-

ters, or a number of other issues. Counselors, because they are involved in the lives of their clients to an intimate degree, often possess knowledge that could be relevant in the civil lawsuits of their clients. As a result, counselors could be subpoenaed and asked to reveal information that has been related to them in a counseling session or to produce counseling records. Even if counseling relationships are privileged by statute, clients themselves may direct their lawyers to subpoena counselors and ask that their counselors testify in court.

When counselors make a professional determination that a client is a danger to self or others, they are required to take steps to protect the client or others from harm. Although many less serious actions could be taken to discharge that counselor responsibility, one option available is to petition a court for the involuntary commitment of a client to a mental hospital (Hiday, 1983). State statutory requirements must be followed and counselors may have to appear at a hearing as witnesses in order to accomplish an involuntary commitment.

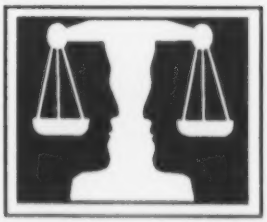
Clients may be charged with crimes, and counselors sometimes become involved in the legal process as a result. Police or investigators may contact counselors to discuss the client. Counselors might be subpoenaed to testify at criminal trials of their clients regarding information relevant to the crime. Counselors could be forced to testify regarding statements their clients have made during counseling sessions that are relevant to the crime. During the sentencing phase of a criminal proceeding, clients may ask counselors to testify regarding the clients' good character or potential for rehabilitation.

The examples of possible counselor court involvement listed up to this point are related to the legal proceedings of their clients. The most frightening court involvement for counselors occurs when they are the parties in court or regulatory proceedings. No matter how ethical or careful counselors are in their practice, they could become involved in legal proceedings in a number of circumstances. Counselors might be accused of negligence or wrongdoing by a client; they could be accused of fraud by a health insurance company or tax officials; or they may be involved in a conflict with an employer or business associate.

A report by Wright (1981a) indicated that psychologists are most often sued for malpractice related to negligence, evaluations, fee disputes, and having sex with clients. To this list of

possible legal actions against mental health professionals, Woody (1989) added incorrect treatment, improper child placement or removal, breach of confidentiality, wrongful death, malicious infliction of emotional distress, improper administrative handling, violation of civil rights, bodily injury, defamation, suicide, improper diagnosis, assault, battery, breach of contract, failure to cure, failure to refer, undue influence, and accident on the premises. Despite the potential for counselor malpractice cases, counselors should be relieved to discover that few are actually filed (Greenburg & Greenburg, 1988).

Counselors must answer to state licensure boards, state education certification officials, private credentialing agencies, and ethics committees of national and state professional associations. When complaints are received against counselors, these groups are empowered to investigate, charge counselors with violations, hold hearings, and discipline counselors. Being found guilty of a violation of the standards of professional conduct by any of these official bodies could have a devastating effect on a counselor's career. As a result, the investigations and hearings conducted are very serious and counselors should respect them to the same degree as they respect court proceedings.



The Adversarial System

In order to negotiate the intricate byways of our legal system properly, counselors must develop a basic understanding of the adversarial system of dispute resolution. Courts were created in society because it is common for two or more individuals to disagree and to find it impossible to resolve disputes among themselves. An orderly society demands that controversies be resolved in a civilized and impartial fashion. Otherwise chaos would reign and people with physical strength or political power would prevail in most situations.

When unresolvable conflict occurs, someone must be granted the authority to decide which party is telling the truth and what should be done to resolve the situation. In court, either an impartial judge or a jury composed of peers and citizens has the responsibility of rendering a decision that is binding.

In the adversarial court system, parties in a lawsuit present their points of view regarding a conflict to a judge or jury. Each adversary is expected to present his or her case in a vigorous and persuasive fashion (Wrightsman, 1987). The role of an adversary is to convince the judge or jury that he or she is correct and that the other party is wrong. Those who are involved in legal cases do the best they can to win by trying to convince the judge or jury that they are right in their interpretation of the controversy.

Lawyers are hired or appointed to represent each side in a legal controversy. Lawyers have an ethical responsibility to pres-

ent the viewpoints of their clients in the most vigorous manner they can. It is the responsibility of lawyers to win the cases of their clients if possible. In order to fulfill their ethical obligations in an adversarial system, lawyers must use all arguments and procedures available to them to help their clients prevail in a legal controversy. Lawyers do not judge whether their clients are right or wrong. Instead, they present the positions of their clients to those who will ultimately make a decision—either judges or juries.

During a court hearing or trial, attorneys try to convince a judge or jury that their client's point of view is correct so that the judge or jury will rule in their client's favor. Courtroom activities follow detailed rules of procedure to ensure that each side in a controversy has an opportunity to tell its story and that all parties are treated in a fair and equitable manner. The main components of an adversarial proceeding include each party presenting his or her position through a lawyer. After each side of a controversy is explained to a judge or jury, an opportunity is given the opposing side to refute or question what has been said.

Lawyers call witnesses to court to support the position their client takes in a controversy. In the adversarial system, witnesses simply tell what they have seen, heard, or said, but do not have the opportunity to give their opinions regarding the controversy before the court. Special witnesses called experts are able to give opinions regarding technical matters that will assist a judge or jury in reaching a decision on the case. General witnesses, however, do not have the opportunity to give opinions.

The roles various people play in court are well defined, and it is vital that counselors who go to court as general witnesses understand their particular role. Briefly stated, the roles are as follows: Parties try to win by telling their stories and refuting the stories of their opponents; lawyers hired by the parties use all legal procedures and persuasive techniques available to them to help their clients win the case; general witnesses tell what they have seen, heard, or said that is relevant to the case; and judges or juries decide who is right and who will win the case. Counselors who are called to court as general witnesses can get into difficult situations if they try to take the lawyer's role and become advocates for a party or try to take the judge's or jury's role and decide which side should prevail in the controversy.

The United States adopted the adversarial court system from Great Britain when the settlers arrived in the New World. The adversarial approach in may ways conflicts with the values that counselors hold. Generally, mental health professionals believe that people should be able to resolve any interpersonal differences through communication and compromise (Lau, 1983; Wright, 1981b). The adversarial court system assumes, however, that all attempts to resolve differences among the parties have failed and that those involved in litigation have come to the conclusion that an impartial decision maker is necessary to settle their conflict. The foundation of the entire adversarial court system is in opposition to the beliefs counselors hold regarding the most effective way to resolve differences. As a result, mental health professionals often are uncomfortable in court and, in many instances, reject the premises upon which the adversarial court system is based.

To perform appropriately as general witnesses in court, counselors do not have to believe in the adversarial court system. Counselors do, however, have to understand how the system works and be familiar with the role of general witnesses.

Subpoenas

A subpoena is an official court document that orders individuals to appear for a court matter, produce records, or appear with their records. In most instances, counselors who receive subpoenas have not done anything wrong. They either have records in their possession or know information that may be relevant to a lawsuit that has been filed. Counselors who have knowledge that a subpoena has been issued requesting that their records be produced or demanding their appearance are required to respond in some manner. Generally, witnesses are served subpoenas personally. However, counselors may not be excused for noncompliance if they know the contents of a subpoena, even if they have never seen the subpoena itself.

Attorneys who have been admitted to a state or federal bar are officers of the courts that have admitted them to practice. As court officials, attorneys may request that subpoenas be issued to witnesses who might have information regarding an active court case. Attorneys involved in lawsuits who believe a counselor may have information regarding the legal matter in question have the authority to request a subpoena ordering a witness to appear for questions or to turn over records. It is important for counselors to understand, however, that although lawyers may request a court to issue subpoenas requesting records or requiring witnesses to appear for court proceedings, lawyers do not have the authority to require a witness to answer specific questions or actually to turn records over to them. Only

a judge may order a witness to answer questions or to provide lawyers with copies of records. Counselors are cautioned, however, that they could be sanctioned by a judge if they fail to comply with a legal request made by an attorney. If a counselor plans to refuse to answer questions at a deposition or to produce requested records, the counselor must have a personal attorney and rely on his or her advice.

When records are subpoenaed, generally all records related to the case in any way and kept under any circumstances are requested. Counseling records could include clinical case notes, administrative files, business records, audiotapes, videotapes, or materials produced by a client that are in the counselor's possession.

In our legal system, a judge's orders are absolute unless they are reversed by a higher court or suspended while an appeal is being considered in a higher court. As a result, counselors who comply with a judge's orders cannot be held liable even if someone's legal rights are violated in the process. Counselors who may plan to refuse to comply readily with a judge's orders must have their own attorney and must rely on his or her advice. Counselors have an ethical obligation to protest an order issued by a judge if they feel the order violates an ethical obligation they have to a client or to an organization. However, once a judge has listened to a counselor's arguments as to why an order should be withdrawn, if the judge rules the order will stand, the counselor must comply. Any person who refuses to comply with a judge's orders may be held in contempt of court. The penalty for contempt could be a fine or imprisonment until the counselor obeys the judge's orders.

In many instances, counselors will be concerned about the privacy of their clients when they receive a subpoena. A later publication in this series focuses on the legal duties of counselors to keep information confidential. When counselors are subpoenaed as witnesses, they could be asked to disclose information regarding their clients. If the attorneys for clients or former clients who are parties to lawsuits issue subpoenas requesting counselors to disclose confidential information related to the counseling relationship, this means that clients themselves want counselors to disclose private information and there is no confidentiality problem. Counselors should comply with the requests of clients to disclose any information clients want disclosed. Often, however, clients do not

want counselors to compromise their confidential relationship, yet counselors find themselves or their records subpoenaed.

In some instances, the information a counselor has regarding a client may be privileged by statute. If the information is privileged, a counselor may not disclose the information to anyone else without the client's consent. There are legal exceptions to privileged communication situations, and judges might even order counselors to reveal privileged information in some circumstances.

If counselors who have been subpoenaed determine that clients do not want confidential or privileged information disclosed, they should not reveal the information unless they are ordered to do so by a judge. If clients are not available for consultation after a subpoena has been received, counselors should assume that absent clients do not want confidential or privileged information revealed.

Each state has different statutes and court procedures that affect the legal implications of a subpoena. In addition, there are many exceptions to general rules of law and ethics. As a result of the varying laws and rules and the difficulty of understanding their legal obligations without assistance, counselors are advised always to seek legal advice from an attorney when they are presented with a subpoena. Occasionally situations exist in which mental health professionals are subpoenaed on a regular basis, and frequent court appearances are part of their routine activities. For example, school counselors who are the custodians of school records may be subpoenaed regularly to verify the contents of the records; a probation or parole counselor may be required to make reports on the conduct of clients at hearings; or counselors in public mental health agencies may frequently be required to evaluate the mental status of clients and make reports in court. In instances where counselors have been to court before, are familiar with court proceedings, understand their legal obligations and liabilities, and have had legal advice on similar cases in the past, they may be able to appear in court without consultation or representation by an attorney. For the majority of counselors who rarely become involved in court proceedings, however, specific legal representation is essential.

One of the reasons counselors need lawyers when they have been subpoenaed is because lawyers generally take over further contact with the lawyers involved in the lawsuit that has been filed, communicate in an appropriate manner with judges and

court officials, and even act as a liaison between counselors and their clients whose privacy may be at issue in the case. By placing the situation in the hands of an attorney and relying on his or her advice, counselors who have been subpoenaed can relax and feel confident that they are fulfilling their legal obligations. Counselors who attempt to fend for themselves without legal representation can easily say or do things that seem appropriate and rational, but innocent acts could subsequently lead to serious problems during the litigation of the case. Counselors who make legal decisions without legal advice will be held accountable for those decisions.

Counselors sometimes are abused by the legal system if they do not have a legal representative protecting them. Counselors might be intimidated into doing something inappropriate, could have their work schedules ignored in setting deposition, hearing, or trial times and dates, or be forced to spend an enormous amount of time dealing with the lawsuit (American Bar Association, 1983). Attorneys understand the legal system and can help ensure that a counselor is protected.

Counselors whose records have been subpoenaed or who have been subpoenaed as witnesses should not be afraid, because they are not parties in a lawsuit. If they behave improperly in responding to subpoenas, however, counselors could expose themselves to civil or criminal liability or could be sanctioned by a judge. As a result of the potential serious consequences of making legal or ethical mistakes, counselors should seek legal advice when they receive a subpoena.

Under the federal rules of civil procedure and many state rules as well, witnesses who are not parties to a lawsuit may be given a subpoena duces tecum. Such a subpoena requires that witnesses bring with them to a deposition, hearing, or trial "real" evidence, which could include records, documents, or correspondence. If counselors are parties in a lawsuit (in other words, if they have filed a lawsuit, are being sued, or have had a criminal charge filed against them), a subpoena could be issued requiring them to allow the other party's lawyer to inspect and copy real evidence.

A deposition is a legal proceeding that allows attorneys to question outside the courtroom parties or witnesses regarding a lawsuit. Depositions are a part of the discovery process. The adversarial legal system is operated on the premise that all parties and their attorneys should know everything possible about

a case and have the opportunity to review all evidence before a case goes to trial. The discovery process allows attorneys to request real evidence and to question parties and witnesses.

A deposition is scheduled by an attorney who wishes to question a party or a witness. A subpoena is sent to the person being deposed or questioned. The subpoena orders the individual being questioned to appear at a specific place and time on a given date. If a deposition is scheduled at an inconvenient time for a counselor, he or she should ask his or her lawyer to contact the attorney who issued the subpoena to negotiate a different time or date. If a counselor does not have an attorney, he or she may contact directly the attorney who issued the subpoena. The opposing party in the lawsuit is sent a copy of the subpoena and the party and his or her lawyer may attend the deposition and participate in the process.

The federal rules of civil procedure require that a notary public or some other official who is authorized to administer an oath be present. If an attorney involved in the deposition wants the testimony to be preserved, he or she may hire a court reporter to attend and take verbatim notes of all that is said during the deposition. State procedures may differ.

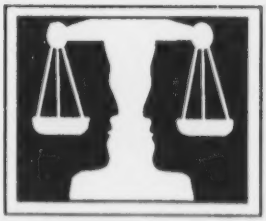
The individual being deposed is administered an oath in which he or she swears to tell the truth. Anyone who lies under oath could be charged with the crime of perjury.

Depositions generally are held in lawyers' offices. Because the judge who is in charge of the lawsuit is not present, counselors who are being deposed do not have to answer any questions or produce any real evidence if they do not feel they are legally obligated to do so. If a lawyer wants to force a party or witness to respond to a question or request, the lawyer may file a motion for a hearing before the judge. At this hearing, the attorney will ask the judge to compel the party or witness to answer the question or produce the evidence. The party or witness will have the opportunity to explain to the judge why he or she does not feel legally obligated to comply with the attorney's request. It is important that counselors have an attorney representing them at this point because attorneys know the legal foundations for refusing to comply whereas a counselor may not know the law. After hearing arguments from both sides, the judge will rule. If a judge feels a witness is unreasonably refusing to answer questions at a deposition that an attorney has a legal right to ask and have answered,

the judge could sanction the counselor and impose on the counselor the costs of court time and the fees charged by the attorneys for making the court appearance.

Court appearances may include preliminary hearings before the judge assigned to hear the case, or there may be an actual trial. All proceedings that take place in a courtroom are presided over by the judge, and he or she is in control of the process.

Counselors are subpoenaed to attend court appearances just as they are subpoenaed to attend depositions. Again, dates or times for hearings or trials may be rescheduled if they are not convenient for the counselor.



Finding Legal Assistance

Counselors are sometimes reluctant to consult with lawyers when faced with legal problems. This hesitancy to seek advice might be the result of their failing to realize legal assistance is needed, being unaware of the legal resources available to them, fearing the costs of a lawyer's time, or even perceiving attorneys to be responsible for their problem and holding the entire profession in disdain. When a subpoena arrives or when a counselor is charged with a crime or is sued in a civil suit, a lawyer is not a luxury, but a necessity (Dawidoff, 1973).

The first response of many counselors when they realize they need legal assistance is to seek informal advice from relatives, friends, or acquaintances who are attorneys. Counselors often call and ask the staff of their professional associations to help them as well. These approaches seldom prove satisfactory. Lawyers who give informal legal advice to counselors, even if they are not paid for the consultation, are legally and ethically responsible for the consequences of counselors' relying on their advice. Attorneys know they bear this responsibility and usually advise counselors to retain a lawyer. Professional association staff members usually are not lawyers themselves and can provide little guidance to counselors who need legal assistance. If a lawyer or other professional is willing to offer informal legal advice, it usually is so general and vague that it is not very helpful.

All counselors, no matter where they work, have access to legal assistance. Listed below are several options counselors might consider when legal advice is needed.

1. Lawyers Involved in the Lawsuit

When a counselor is subpoenaed as a witness, one of the sides in the lawsuit generally will be helped by the counselor's testimony. Counselors must realize, however, that the attorney who has issued the subpoena is not always on the "friendly" side. If it is clear to the counselor which attorney's position will benefit from his or her testimony, the counselor might choose to rely on the advice and instruction that attorney might offer.

Listening to an attorney who is an advocate for another person and has absolutely no obligation to the counselor and no interest in the counselor's ethical or legal responsibilities could lead to problems for the counselor. A lawyer in an adversarial system has an obligation to win the case for his or her client. The legal issues of concern to a witness are not the responsibility of a lawyer who is representing one of the parties in a lawsuit. Counselors are cautioned against relying on the advice of any attorney who is not representing the counselor. A "friendly" lawyer whose case will be helped by the counselor's testimony has no obligation to have the best interests of the counselor in mind.

Counselors who are called as witnesses in criminal cases will be subpoenaed either by a prosecutor or a criminal defense lawyer. The prosecutor is obligated to do his or her best to secure a conviction, and the defense lawyer in turn must seek the best possible result for his or her client. Neither the prosecutor nor the defense lawyer has an obligation to advise or protect those whom they subpoena as witnesses.

2. Agency Lawyers

Counselors who are employed by schools, mental health centers, state or federal agencies, hospitals, or any other organization may ask their employers for legal assistance when their legal problems result from their job responsibilities.

All organizations need legal advice on a regular basis. Agencies either have attorneys on staff, contract with local law firms

or individual practitioners for legal services, or have governmental lawyers to advise them if they are funded by local, state, or federal governments. Individual counselors should have access to their organization's lawyers when they have legal concerns related to their positions.

Generally, the best way to reach a lawyer who represents the counselor's agency is to request a consultation. A counselor needing advice should ask his or her immediate supervisor to arrange a meeting with an attorney or for authorization to contact the attorney directly. Another method of addressing legal issues is to submit a question in writing and ask that it be forwarded to the agency lawyer.

Counselors must bear in mind, however, that lawyers who represent organizations have a responsibility to protect the agency, not individual employees. If the legal interests of an organization and a counselor were ever in conflict, the agency lawyer would have to represent the agency. As a result, it is sometimes necessary for counselors to seek legal advice outside the organizational structure even though the legal problem might be job-related. An example of a situation in which the agency lawyer might not be the best advisor for a counselor is when both the counselor and the agency are named as codefendants in a civil lawsuit. An agency attorney might be successful in getting the agency dismissed from the lawsuit, which may not be in the best interest of the employed counselor.

3. Legal Assistance as an Employee Benefit

Some employers now provide their employees with legal assistance as a benefit. Arrangements that offer employees free legal advisors vary greatly in their formulation. Essentially, employers pay lawyers to serve the legal needs of their employees. In most circumstances, the types of legal assistance are confined to certain matters, or a limit is set on the number of consultations.

Counselors who work for organizations with an employee legal assistance plan should investigate the terms to determine whether they could use the services for their legal needs. Such plans require that the lawyers who are assigned to help employees legally represent the counselor rather than the organization, so that no conflict of interest will occur.

4. Liability Insurance Legal Assistance

Counselors who are subscribers to professional liability insurance policies, or actually any type of liability insurance, may be entitled to legal assistance based on the terms of the policy. Again, the arrangements liability insurance policies provide vary greatly. Some professional liability insurance policies provide free telephone consultation with attorneys for policyholders. Usually a lawsuit must be filed against the policyholder before the insurance company will provide legal assistance. Counselors should consult the policies they hold to determine the circumstances in which they would be provided with access to a lawyer.

Most policies hire a lawyer for the counselor and reserve the right to choose the lawyer. Some policies may allow the counselor to choose his or her lawyer. When considering whether to purchase a particular policy, counselors should determine whether they have the option of selecting their own attorney (Hopkins & Anderson, 1990). Counselors should read their liability policies carefully to determine under which circumstances they are entitled to legal advice and how the lawyer is chosen.

Counselors who do hold professional liability insurance policies should contact their carrier immediately if they believe a suit may be filed against them. Some policies will not cover the expenses of a lawsuit or pay settlements or judgments if the insurance companies are not given notice of legal problems immediately after they become known to the counselor.

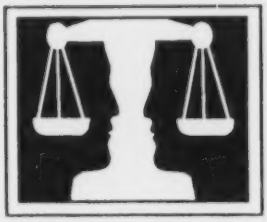
Many counselors wonder whether they should incur the expense of purchasing their own professional liability insurance policy. Generally, counselors do need their own policies. The only exception is when an employer purchases a policy that protects an individual counselor. Most institutional liability insurance policies cover the institution, not employed individuals. Although counselors are seldom sued for malpractice, the costs of defending themselves or paying even a relatively small judgment or settlement could be financially prohibitive.

5. Private Lawyers

Counselors who need legal advice always have the option of using their own money to hire a lawyer to give them legal advice. Legal assistance is expensive, but in some circumstances the

professional risk involved in the legal problem justifies a substantial expenditure to protect the counselor. In most circumstances, the only choice for counselors in private practice is to retain their own lawyer.

Counselors who hire lawyers are assured that their attorney is representing them without any conflicting obligations to others (Wright, 1981b). An attorney who renders legal advice is responsible for giving a counselor accurate information and can be held legally responsible if his or her advice harms the client in any way. As a result, a counselor can rely on the attorney to give accurate directives.



Choosing A Lawyer

Counselors who are given the opportunity to choose a lawyer to consult regarding their legal problems face the difficult task of finding an attorney who has the background and experience appropriate to assist them. The best choice would be a lawyer who specializes in representing mental health professionals. Attorneys who have dealt with the legal problems of counselors in the past already have an appreciation for the special confidential relationships counselors establish with their clients. They also understand the counseling process and most likely are aware of many specific legal issues that counselors encounter. Counselors might find attorneys who specialize in mental health law by talking with their colleagues who are in private practice. Counselors who engage in private practice usually have a continuing relationship with an attorney who responds to their many legal needs. If an attorney who represents a number of mental health professionals in their private practices can be located, then the counselor will have found an advocate who has some specialized experience and knowledge of mental health law.

If a specialist in mental health law cannot be found, counselors will need to retain a lawyer and then educate him or her regarding special issues in counseling relationships. Attorneys who agree to represent legal clients have an ethical and a legal obligation to conduct any research necessary to render sound and accurate legal advice. As a result, any attorney who is licensed by a state bar could represent a counselor. Once retained, the

attorney would have to gather any information needed before advising a counselor.

Most attorneys in private practice, like counselors and other professionals, specialize in certain areas. Attorneys who specialize in corporate, tax, or engineering law, for example, probably would not be good choices for counselors because these specialties are so different from mental health. However, attorneys who specialize in family law and divorce, small business ownership, or juvenile criminal law, or who represent physicians or other health professionals, might be good choices for counselors because certain aspects of their practice would have prepared them for some of the same legal problems that counselors might face.

When a subpoena arrives with the counselor's name on it, or the counselor is threatened with a lawsuit, the normal reaction is panic. Counselors who find themselves in a situation requiring legal advice want it immediately. It is better to spend a few days or weeks thoughtfully selecting an appropriate attorney than it is to rush into a relationship with a lawyer who may not be the most appropriate legal representative. Most dates established for legal events such as hearings, depositions, and trials are either set arbitrarily or agreed upon by two lawyers. As a result, your attorney usually can delay a date that has already been set, if necessary. Because dates usually can be changed, counselors should not feel compelled to enter into a relationship with a lawyer just because a date for a legal event is near. On the other hand, counselors should waste no time in securing a lawyer when one is needed.

Although most people realize they should carefully select professionals who will be performing services for them, they tend to choose physicians, dentists, accountants, and lawyers in a haphazard manner. Instead of investigating potential professionals who might best serve their needs, people often select their professional providers based on the subjective advice of one friend, geographic proximity of the professional's office, prior acquaintance with the professional from a social context, or simply by choosing someone from the yellow pages arbitrarily. Once a professional has been chosen, people must rely on that professional. As a result, they tend to have exceptional faith in the person they choose and are reluctant to change to another professional even if they are not satisfied with the services they re-

ceive. It is vital, then, that counselors select their attorneys carefully because once the relationship is established, it probably will be long-term.

Counselors should ask individuals who have suggested a lawyer for specific information regarding that attorney's approach to his or her work. Appropriate questions might include the following:

- Is the lawyer willing to take charge of difficult situations and take whatever steps are necessary to resolve them?
- Does the attorney return telephone calls promptly?
- Is the lawyer, an associate lawyer, a paraprofessional, or a secretary available for consultation when needed?
- Does the attorney listen carefully to the details of a situation before rendering advice?
- Is work completed on time?
- Does the attorney request input from clients and explain the reason for taking each step?

In the event specialists in mental health law or related areas cannot be located, counselors may be forced to find potential lawyers for themselves. Local city and county bar associations maintain lists of attorneys who practice in certain fields and are willing to accept referrals. Counselors who call the bar association should explain carefully the type of legal services they need. The bar association employee generally will then offer three names of attorneys who seem to specialize in an appropriate legal area. Counselors should interview any attorneys contacted through this type of referral process carefully to determine whether they would be able to render the services needed.

The yellow pages of the telephone book list attorneys by specialty area. Counselors who cannot obtain a referral from a practicing counselor or other mental health professional could contact an attorney listed under a relevant specialty area in the yellow pages. Display advertisements placed by attorneys in the yellow pages might be helpful if specializations are listed.

Once a lawyer has been identified who seems a good possibility, the counselor should make an appointment to discuss the legal problem in question. When contact is made with the attorney's office to schedule the meeting, the counselor should inquire whether the lawyer charges for initial consultations, and if so, how much. Attorneys and law firms vary in this

practice. An attorney should not be eliminated if he or she does expect a fee for an initial consultation. Counselors usually charge for their first counseling sessions with clients as well.

After a counselor has identified an attorney who has an appropriate background and who seems to possess the qualities of an effective advocate, a personal meeting will either confirm that this attorney is the right choice or convince the counselor that another lawyer should be sought. Just as a client needs to feel a positive rapport with a counselor, a counselor must have positive feelings toward his or her attorney. It is vital that the counselor have confidence in the attorney, trust the person to the degree that complete honesty is possible, and feel comfortable relating to the individual. The attorney should be evaluated, too, regarding how effective he or she might be when representing the counselor in court (Richards, 1990).

At the initial meeting with the attorney, the counselor should explain the legal problem as clearly and concisely as possible. Stating the facts regarding the situation in the most dispassionate manner possible is the best approach. It is acceptable for the counselor briefly to describe his or her emotional response to the situation. Long, detailed descriptions of personal relationships or outrageous behavior on the part of others probably would not be helpful.

At the end of the interview, the counselor should decide whether he or she is comfortable with this lawyer. If the attorney is acceptable, the counselor should ask about financial arrangements. If they are satisfactory, the counselor should ask the attorney to be his or her legal representative.

If, at the conclusion of the interview, the counselor is unsure about retaining the lawyer or has decided the attorney is unacceptable, the counselor should tell the attorney that he or she will consider what has been discussed and will make a decision later regarding the next step.

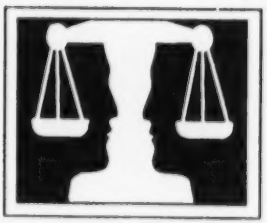
Additional lawyers should be interviewed if the counselor does not have positive feelings about the first attorney or attorneys contacted. It is better to spend time and money at the beginning of the process and select an attorney who is easy to talk with than it is to spend time and money later on an attorney who is not satisfactory.

Before a potential legal advisor is interviewed or hired, it is vital that the counselor have a clear understanding of the fee

arrangements. Some attorneys offer written fee agreements, but many simply discuss fees and reach verbal agreements to represent clients.

Attorneys represent people under a variety of fee arrangements including a fixed fee to handle the problems, an hourly fee payable at the end of each month, and a cash retainer or down payment that represents a set number of hours of work, with any additional hours billed separately. All attorneys charge court costs and expenses in addition to their fees. Most lawyers charge by the minute or tenth of an hour for any time they spend on the client's behalf. Billable time usually includes telephone calls to or from the client, calls to others on the client's behalf, drafting documents, researching statutory or case law, meeting with clients or others, traveling from the office to another location, and appearing in court. Counselors should ask any questions they have regarding their attorney's fees to avoid surprises or resentment when the bill arrives.

Lawyers may withdraw from cases or terminate their representation of a client if the client fails to pay a bill for services rendered. Generally, bills are due and payable when presented.



Consultation With Attorneys

The information in this section is directed toward counselors who have hired their own lawyers. Counselors should proceed with extreme caution if they choose to consult with the lawyers of one of the parties in a lawsuit, with the attorneys who represent the agency in which the counselors work, or with some other lawyers who are not employed by the counselors. When speaking with a lawyer who does not represent the counselor individually, the counselor should bear in mind that the attorney has the best interest of another person or entity in mind and has no legal obligation to advise the counselor. In any situation in which the interests of the counselor conflict with the interests of the attorney's client, the attorney will be ethically and legally obligated to take steps to protect his or her client.

Once a counselor who has become enmeshed in a legal proceeding has retained an attorney, the counselor is entitled to a sigh of relief. One of the most comforting aspects of having an attorney is that the counselor can rely on the lawyer's advice and guidance in an arena in which he or she is unable to make decisions without help. Attorneys have a legal obligation to advise their clients in a way that will benefit the clients. If a lawyer gives inaccurate advice or advises clients in a manner that results in the clients being harmed, the clients can sue their lawyer for malpractice. Clients must rely on the advice of their legal representative and must have faith that the lawyer's advice is accurate and appropriate.

After a counselor has retained a lawyer, he or she will act for the counselor regarding the legal matter. Generally, counselors no longer communicate directly with the parties in a lawsuit or with the attorneys representing the parties. Instead, all communication flows through the counselor's attorney. This, in itself, has a tremendous effect on helping to relieve the counselor's stress. Hiring a lawyer allows counselors to put the entire legal matter into the hands of someone who knows the law and who is obligated to serve the best interests of the counselor. Counselors tend to believe that talking about a problem or controversy will help resolve the difficulty. Once an attorney has been hired, however, it is imperative that counselors avoid direct communication with parties and other lawyers. It is advisable that counselors refrain from discussing the case with anyone other than their lawyer.

An important concept for anyone who retains an attorney to remember is that the client always is in charge of the matter and is responsible for any actions taken. A lawyer gives advice and information, but the counselor who has hired the attorney must make all decisions. As a result, it is vital that legal clients be given all the information they need before they are asked to decide on a course of action. Lawyers have an obligation to their clients to answer questions, predict probable results of any actions taken, and suggest alternatives and discuss possible results. Counselors should not hesitate to ask their lawyers to explain any terms, procedures, or alternatives they do not understand. A lawyer's job ends when a legal matter has been resolved; the counselor's reputation, practice, or life, however, may be affected by the results. An attorney who advises a counselor can be a great source of comfort and relief. However, the counselor should always retain final decision-making power in the relationship.

The best approach to consulting with an attorney is to retain a lawyer long before a legal crisis arises (Woody, 1988). If an attorney can be contacted and a meeting can be arranged in a calm environment, the results will be much more satisfactory. As soon as counselors determine they will need legal assistance, they should arrange a meeting with an attorney.

Consulting with an attorney to discuss issues that would prevent future legal problems is the best course of action. Unfor-

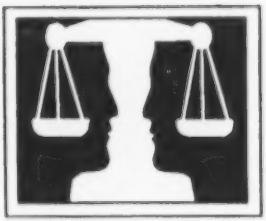
tunately, however, counselors rarely seek legal advice until a problem is at hand. It is essential, though, that once it has been determined that a lawyer is needed, that the counselor make arrangements immediately to see someone. It will take time to identify the right lawyer, and sometimes the counselor will have to wait until the attorney has time to schedule an appointment. Legal matters usually entail deadlines and scheduled dates. Counselors should not wait until the last minute before something is due or before a hearing is scheduled to consult with a lawyer.

In counseling relationships, counselors expect their clients to be truthful and to tell every detail as honestly and objectively as possible. Similarly, attorneys expect counselors who are their clients to tell everything—negative information along with the positive. A lawyer's legal advice is only as good as the accuracy of the information upon which it is based. Counselors should remember that their relationship with attorneys they have hired to represent them is confidential and privileged by statute. An attorney would never reveal information related by a client and must have accurate facts in order to formulate sound advice.

If counselors are unsure whether something they have said or done was appropriate or legal, they should always tell their attorneys. Purposefully omitting facts or misrepresenting information when consulting with an attorney can prove disastrous at a later date. A counselor's lawyer will not allow the counselor to be harmed unduly as a result of anything inappropriate or illegal the counselor may have said or done. It is the attorney's ethical and legal obligation to advise the counselor, keeping the best interests of the counselor in mind. Without accurate or full information, however, an attorney could advise a counselor to say or do things that could lead to serious problems later.

In the final analysis, counselors must be comfortable with the advice of their lawyer and must trust the person who is helping them cope with their legal problems. Counselors must do everything their lawyer tells them to do. Ignoring or refusing to follow the directives of their attorney can excuse the attorney from responsibility if something goes wrong. If a counselor does not have confidence in his or her attorney, the counselor should

formally terminate the relationship and retain another lawyer as soon as possible.



The Reluctant Expert

Expert witnesses have an obligation to present unbiased opinions and to prepare their opinions in a thorough and professional manner. Most mental health experts who present expert testimony in court have had no previous relationship with the parties litigating the case and are hired specifically to formulate and present an opinion in court based on their specialized knowledge of mental health.

Occasionally mental health professionals are subpoenaed to court as general witnesses and then asked to render expert opinions. Although all counselors are capable of serving as expert witnesses within their specialized areas of expertise, it is an abuse of mental health professionals to ask them to render expert opinions without their first having agreed to do so. Generally, counselors who have not been retained and paid as expert witnesses should not have to render professional opinions in court proceedings. A mental health professional who is serving as a general witness may be asked to discuss opinions that were acted upon in the past, but should not have to formulate new opinions during court proceedings.

Expert witnesses who appear in court generally are retained and paid for the express purpose of formulating and defending an expert opinion that has been developed as a result of the expert's specialized knowledge and experience. Expert witnesses must be neutral regarding the outcome of the case before the court and must be objective throughout the process. Generally,

expert witnesses spend a substantial amount of time preparing to render their opinions (Schutz, Dixon, Lindenberger, & Ruther, 1989). They may also be asked to render opinions based on hypothetical, rather than real, circumstances.

Most counselors who are subpoenaed to court as general witnesses have been subpoenaed because they have had a professional relationship with one of the parties. Generally, because counselors have an investment in the well-being of their clients, these same counselors cannot be objective to the degree required of expert witnesses. In addition, expert witnesses have time to prepare their opinions before presenting them in court. Counselors serving as general witnesses who are unexpectedly asked to give expert testimony in court should not be required to do so.

There are numerous situations in which counselors might be asked to give expert opinions when they have been subpoenaed as general witnesses. A counselor who has been counseling a mother and her daughter for a period of time might be asked by the attorney for the mother whether, in the counselor's opinion, the mother is a better custodian of the child than the father might be. A counselor who has been counseling a client involved in an automobile accident might be asked by the lawyer for the client whether, in the counselor's opinion, the client's emotional problems were directly caused by the trauma associated with the accident. A school counselor may be asked, based on his or her counseling relationship with a student whether, in the counselor's opinion, a student would be best served in one special education placement rather than another.

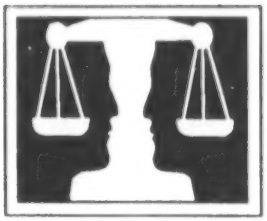
Counselors should not be asked to render expert opinions in court after they have been subpoenaed as general witnesses, and they should not be required to answer questions regarding their opinions if they are asked. Unfortunately, however, mental health professionals sometimes find themselves in the difficult position of being asked their professional opinions with no prior warning.

Although a counselor may be flattered that a judge or jury might use his or her expert opinion in coming to a final decision regarding a case, the counselor should try to avoid rendering an expert opinion unless he or she has been specifically hired and paid to do so. Unless a counselor can honestly say that he or she is totally objective and has no interest in the outcome of the case and has thoroughly prepared by collecting and reviewing all

relevant information necessary for formulating an expert opinion, the counselor is not in a position to state an opinion or to defend one. The attorney whose case is harmed by the counselor's opinion will have the opportunity to demonstrate that the counselor was biased or that the counselor did not collect and review all the necessary information and therefore rendered an expert opinion in an unprofessional manner. The embarrassment the counselor might experience, the damage that might be done to his or her professional reputation, and the ethical responsibility of the counselor to render opinions only in appropriate circumstances all can be cited as reasons counselors should be reluctant to render expert opinions unless they have been retained specifically for that purpose.

If a counselor is testifying at a hearing or a trial as a general witness and, without warning, is asked to give his or her expert opinion, many events might follow. It is hoped that the opposing attorney will object and point out to the judge that the counselor has not been properly qualified by the judge as an expert and, therefore, should not be allowed to render an expert opinion. If there is no objection from the opposing lawyer, the counselor could simply say that he or she is not in a position to answer the opinion question because he or she is biased (has an interest in the outcome of the case) or has not had the opportunity to collect and review information that would be necessary to formulate an opinion in a professional and proper manner.

Some judges might order a counselor to give his or her opinion despite objections from the opposing lawyer or from the counselor. In such circumstances, the counselor has no option but to follow the judge's order. Certainly, however, the counselor should qualify the opinion to the degree necessary to make it professionally acceptable. The counselor should precede his or her opinion with statements regarding biases or lack of preparation and information in formulating the opinion.



Witness Behavior

Once it is clear that a counselor will be serving as a witness at a deposition, hearing, or trial, he or she should prepare for the experience. Remembering the role of a general witness, following a few single guidelines, and remaining calm will contribute to the counselor's feelings of competence during and after the formal examination by attorneys.

If a subpoena arrives that includes a date, time, or place for the counselor to appear that the counselor did not agree upon in advance, it may be possible to arrange to have changes made. If an attorney has been retained to represent the counselor, the attorney should be contacted and asked to attempt to reschedule the date, time, or place of the appearance if any are inconvenient. As a matter of professional courtesy, attorneys will be willing to reschedule the specific details of an appearance if at all possible. If the counselor does not have an attorney, he or she should make the request for a change to the attorney who caused the subpoena to be issued. If the appearance causes a great hardship and the attorney who had the subpoena issued is unwilling to agree to a voluntary change, the counselor might contact the judge assigned to the case and ask that the judge order a change.

Counselors serving as general witnesses should remember that such witnesses provide information for judges or juries that help them make informed decisions regarding the controversy being litigated in the case. Witnesses should not be frightened (Liebenson, 1962). If counselors can keep in mind that they are being

asked questions by attorneys to help someone else make a decision, that they are not being charged with any wrongdoing themselves, and that they have a limited role in the legal proceedings, they will be successful as general witnesses. If counselors try to persuade a judge or jury to render a decision in a particular direction, or become emotionally involved in the controversy, they run the risk of acting inappropriately and perhaps being accused of unprofessional behavior.

It is vital that counselors who serve as witnesses at depositions, hearings, or trials understand that all they say as witnesses will be under oath (Tierney, 1970). They will be required to swear before they begin their testimony that they will tell the truth. Any violation of this promise to be truthful could result in a counselor being charged with perjury, which is a serious crime that could lead to a fine or imprisonment. Conviction of perjury could have a devastating effect on a counselor's professional credentials, right to practice the profession, and general reputation.

Before counselors talk to lawyers or others regarding the matter they will be asked about, they need to go over in their own mind the details surrounding the situation. Every word and detail concerning the situation should be reviewed in the counselor's notes and records and in the counselor's mind. The counselor should be confident he or she remembers a detail, is unsure of a detail, or does not remember. Once the counselor has established the state of his or her memory, the information the counselor plans to relate during questioning should be privately reviewed and internally decided upon. During the questioning process, counselors should stick to their stories precisely and not allow attorneys to confuse them or convince them their memory is different from how they have previously described it. There is nothing wrong with a counselor stating that he or she does not remember or that his or her memory is unclear. However, it compromises the counselor's credibility as a witness if, during the questioning process, he or she agrees that something that was originally not remembered is later clearly remembered or that something clearly remembered originally is later unclear. In the event that a true change in memory occurs, counselors would be obligated to tell the court. No apology should be made because memory changes can happen.

In preparing for legal proceedings, it is perfectly acceptable for attorneys to meet with their clients or witnesses they plan to examine under oath to rehearse the question and answer process. Counselors should follow the directives of their own attorneys in formulating their responses to questions and should consider the advice of attorneys whose cases might be helped by their testimony. Counselors should never agree to hide information or tell anything in court that is untruthful. Counselors must remember that they are witnesses, not advocates, despite any personal feelings they may have for their clients. The advocacy role is the exclusive domain of their client's attorney.

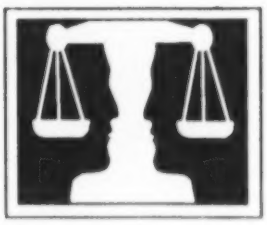
Courtrooms are formal environments. Counselors must be present before or at the time specified on the subpoena. Witnesses should always dress according to their status. Because counselors are professionals, business clothing should be worn to court. Counselors should ascertain from attorneys with whom they consult exactly where they should go when they arrive at the place specified for the deposition, hearing, or trial. There are formal rules regarding the presence of witnesses in the hearing room or courtroom during the testimony of other witnesses. Counselors should never enter the room during the proceedings without first checking with a court official. If counselors have questions regarding where they should go, where they should sit, or what they should do, they should direct those questions to their attorney or to the clerk of the court. The clerk usually has an office located in the same building as the courtroom. Counselors who have been in courtrooms before should not assume they know the rules of behavior. Judges have the right to determine procedures for their courtrooms, and practices vary widely.

After the oath has been administered and the questioning has begun, the counselor should make every effort to answer each question posed by an attorney in a direct manner. If elaboration is required, the counselor should attempt to explain his or her answer. Only questions asked should be answered and information should not be volunteered.

The counselor's demeanor during questioning should be earnest, dispassionate, calm, and confident. Focusing on the question being asked and directing responses to that specific question will help the counselor maintain composure. If the attorney ask-

ing questions becomes rude or aggressive, the counselor should do his or her best to remain calm. Ignoring rude comments and answering all questions in a direct manner will demonstrate to a judge or jury that the counselor is honest and forthright.

Counselors who have been subpoenaed as general witnesses in court proceedings should be able to complete their testimony obligations without residual feelings of fear or guilt if they keep in mind the proper role of a general witness, to tell the truth, and to remain impartial. After testifying in a professional manner, a counselor should not be concerned with or feel responsible in any way for the ultimate outcome of a case.



Frequently Asked Questions

Q. One of my former clients has asked that I appear in court to serve as a character witness. What is such a witness and should I agree?

A. A character witness is someone who can give testimony to a judge or jury that a party in a lawsuit or a defendant in a criminal trial generally is a truthful person and that what he or she has said can be believed. An individual who agrees to be a character witness for someone else stakes his or her professional reputation on the ability to judge accurately the character of another person. Counselors should not agree to be character witnesses for former clients just because they feel sorry for the clients or because the clients are nice people. Only when the counselor firmly believes a former client is generally truthful and can be believed should the counselor agree to testify. Counselors should be forewarned, however, that any question asked regarding the client's character will have to be answered. Confidential information might be compromised. In addition, counselors should consider the loss of time, and perhaps income, they will incur if they voluntarily agree to testify. Generally, counselors should not agree to serve as character witnesses for clients or former clients.

Q. Why do attorneys try to misrepresent what counselors have said or infer meaning that was not intended when counselors testify in court?

A. The attorney whose case will be harmed by the counselor's testimony has an opportunity to discredit what the counselor has said. This is an important part of the adversarial system. During cross-examination, attorneys may question witnesses regarding specific details of their testimony. Any inconsistencies in what was said will be attacked, the accuracy of the witnesses' memory will be questioned, and any bias the witnesses may have will be exposed. Attorneys have an obligation to mitigate the damages of any adverse testimony. They must do this to fulfill their adversarial advocacy role.

Q. I know my client and his family situation well. Why shouldn't I agree to testify that I believe he would be the best parent for his minor children?

A. Counselors who have been engaged with clients are necessarily interested in what they feel is best for their clients. They view situations in a very subjective manner if they feel their clients could be harmed in some way. Many counselors are advocates for their clients. An expert witness must be neutral. A counselor who has counseled a parent is not objective. In addition, a counselor could not testify that one parent would be better than another unless the other parent has been evaluated, homes have been visited, children have been interviewed, and the situations and perhaps personalities of both parents have been thoroughly assessed. Counselors who agree to provide the testimony requested in the question above generally will be accused of an unprofessional evaluation and could face a hostile and forceful cross-examination designed to demonstrate their bias and lack of preparation.

Q. I do not believe my former client should see the clinical notes I have kept regarding our relationship. Her attorney has issued a subpoena indicating I have to appear in court with my notes. Will I be forced to reveal them to the judge, her lawyer, or my former client?

A. Unless there is a statute or regulation to the contrary, clients generally have a right to see records kept in their behalf. Judges can order counselors to produce records, even if the relationship is privileged, upon the client's request.

Q. The statute in my state says that I must make reports of suspected child abuse, but that I may make them anonymously. Is there any reason I should give my name and identifying information?

A. Professional counselors should take responsibility for reports of suspected child abuse. This would include giving their names, telephone numbers, and addresses. Child protective services workers may need further information. In addition, witnesses may be needed in custody hearings or criminal actions against suspected perpetrators. Counselors also need a record that they have fulfilled their legal obligations to file the report.

Q. I have been asked by my state licensure board to respond to a charge that I have violated an ethical standard. What should I do?

A. Many charges are dismissed by licensure boards after an investigation. However, such investigations are serious and could have devastating results for the professional lives of counselors. Contact your professional liability insurance carrier immediately. Also, consult an attorney and follow his or her advice.

Q. I have been subpoenaed as a witness in a trial involving one of my former clients. I am afraid I will do or say something that is unethical or illegal. What should I do?

A. Legal advice is recommended when counselors fear they may do or say something inappropriate.

Q. I have a set of clinical records on my clients that I keep in a locked cabinet that only I may access. Is it possible that they might be subpoenaed?

A. Most subpoenas request all records related to the case kept in any place. Secret or closely kept records are as susceptible to subpoenas as are more official or public records. Of course, privileged communication statutes may bar access to any records. Legal advice is recommended.

Q. If a judge orders me at a hearing or trial to reveal information the client does not want revealed, could I be sued by the client if I obey the judge's order?

A. People may sue other people for anything. If a counselor follows a judge's order, however, he or she cannot be held legally responsible. It is important to protest the judge's order, however, if appropriate. The client's attorney or the counselor's attorney should intervene. A judge's orders must be followed, or counselors could be held in contempt of court.

Q. To protect myself later, my attorney has advised me to document every conversation I have with others in my practice, to take copious notes after every counseling session, and to develop forms that must be signed by clients for all transactions in my office. Is this good advice?

A. Documentation of appropriate actions is an exceptionally good defense when a counselor is accused of wrongdoing. On the other hand, self-protective steps must be weighed against their interference with the rendering of quality counseling services. All counselors assume risks and must decide for themselves how much self-protection is appropriate or acceptable in their practice.

Q. I have hired an attorney to advise me regarding my upcoming role as a witness. My former client's lawyer has called me requesting information. What should I do?

A. Refer your client's lawyer to your lawyer. Do not interact with lawyers or other parties regarding the case without the advice and consultation of your attorney.

Q. What are the most common mistakes counselors make when they become involved in legal proceedings that I can avoid?

A. The most common mistake is that counselors often allow themselves to become involved in a legal situation without understanding their legal obligations and vulnerabilities. Legal advice is essential when legal problems arise, yet counselors and other mental health professionals are reluctant to seek help from

attorneys. Another common mistake is that counselors feel that they must be advocates for their clients when their clients become involved in lawsuits. If counselors become witnesses, they must tell the truth.

Guidelines for Practice

If you receive a subpoena that requires you to appear with your counseling records for a particular client . . .

1. Seek legal advice. In this case, you might use your agency's lawyer. Another good alternative would be to hire your own private attorney.
2. Assume that your clients would not want you to disclose anything about your relationship with them unless you have received specific authorization to provide information.
3. If the time, date, or place are inconvenient, request a change from the person who issued the subpoena.

When you go to a deposition as a subpoenaed witness . . .

1. Take your own attorney with you if you have not participated in a deposition before. Follow his or her advice.
2. If the time, date, or place are inconvenient, request a change from the person who issued the subpoena.
3. Unless you have prior specific authorization from your client, rely on your own attorney's advice as to whether you should answer questions or produce records that might compromise your client's privacy. Be polite but firm if your attorney advises you to refuse to answer a question. If the attorney asking the questions wants them answered, he or she will have to subpoena you to appear before a judge who will decide whether the questions must be answered.

4. Do not take any records with you to the deposition if you do not plan to show them to the attorney. Rely on your own attorney's advice.

When you need to consult with a lawyer . . .

1. If you do not intend to hire a personal attorney to represent you, consider talking to the following lawyers: (1) the attorney whose case will be helped by your testimony; (2) the lawyer who represents your school, agency, or organization; (3) a lawyer provided by an employee benefit plan in your organization (if your employer provides such a legal assistance benefit); or (4) an attorney provided by your professional liability insurance carrier (if you are entitled to this benefit).
2. Consider hiring your own personal lawyer because attorneys for other people or for organizations do not represent you personally or have your best interests in mind.

When you need to hire a lawyer to represent you . . .

1. Contact your professional liability insurance carrier immediately if you think a lawsuit might be filed against you.
2. Consider the following possible attorneys in the order listed: (1) a lawyer who represents other mental health professionals in their private practices; (2) an attorney who represents physicians, other attorneys, accountants, or other professionals who have confidential relationships with their clients; or (3) a lawyer who has a general practice or a practice in family law and divorce, small business ownership, or juvenile criminal law who is open to learning about the special legal concerns of mental health professionals.
3. Spend time finding the best lawyer for you. Do not rush into a relationship because you are in a state of panic.
4. Meet with a potential attorney you have selected. Determine whether you have confidence that this person could represent you effectively in court and whether you trust and feel comfortable with him or her before you enter into an attorney-client relationship.

When you have hired an attorney and need to talk about a legal matter . . .

1. Try to anticipate problems and get advice *before* a crisis occurs.

2. Remember that you will be in control of the decision-making process and ultimately will be responsible for all decisions you make. Your attorney will give you information and advice, but will not make decisions for you.
3. Turn over the details of the legal matter to the degree possible to your attorney.
4. Do not talk to attorneys or other people associated with the case unless your attorney advises you to do so. Refer any inquiries or calls regarding the case to your attorney.
5. Remember that your relationship with your attorney is confidential and privileged. Tell him or her the truth and always give complete information.
6. Avoid the tendency to use your attorney for personal counseling. Keep your interactions as brief as possible. Focus on facts and relevant information related to the legal problem when you talk with your lawyer.

If you are testifying as a general witness and are asked by a lawyer to formulate an opinion because of your specialized mental health knowledge, education, or experience . . .

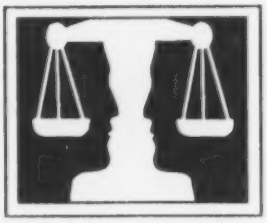
1. Give the other attorney an opportunity to object to the question based on the fact that you have not been qualified as an expert witness.
2. If the other attorney does not object, explain to the judge that you have not been hired to render an expert opinion. Also explain that you have not had the opportunity to collect the necessary information to formulate an expert opinion. If you are biased in some way, explain the bias.
3. If the judge orders you to give an opinion, qualify your statements by explaining your bias (if any) and lack of information and preparation before rendering the opinion.

Once you know you will be examined as a witness at a deposition, hearing, or trial . . .

1. Do you best to stay calm. Your demeanor is important in establishing your credibility as a professional.
2. Seek to change the date, time, or place if any are inconvenient for you. Make the request for a change through your attorney if you have retained one.
3. Focus on your role as a general witness. Remember that you are supposed to provide honest, accurate information for the

judge or jury. Avoid trying to persuade the judge or jury to decide the case in a particular direction. Do not become emotionally involved in the outcome of the case.

4. Always tell the truth.
5. Review in your mind the details of the matter that you will be questioned about. Once you decide what you remember, what you do not remember, and the details, do not change your mind during questioning, unless you truly do have a memory change.
6. Rehearse your testimony with your lawyer or the lawyer whose case will be helped by your testimony before the date you are scheduled to appear as a witness.
7. Ask questions if you do not understand something about the formal courtroom procedures.



Summary

A message repeated several times in this monograph is that counselors and other mental health professionals who are drawn into court proceedings need legal advice from an attorney who represents them. All professionals have legal obligations to clients and society, and it is beyond the capacity of those who are not trained in the law to know all their responsibilities. Although legal advice may be expensive, failure to seek it may prove to be more costly in the long run.

Counselors who testify in court must realize that their role as a witness is vastly different from their role as a counselor or advocate for their clients. It is vital that counselors understand they are supposed to provide information for judges or juries who ultimately will make decisions regarding controversies.

Mental health professionals should not allow themselves to be forced into giving expert testimony if they have not prepared accordingly. Many counselors are embarrassed and run the risk of violating professional standards of practice when they give expert opinions in court inappropriately.

Very few counselors will be sued for malpractice during their careers. However, an increasing number of mental health professionals find themselves involved in court proceedings. This monograph is intended to provide some useful advice and guidelines.

Discussion Questions

1. What is the purpose for the ethical requirement that counselors and other mental health professionals keep interactions with clients confidential? Why is it that a judge can order a counselor to reveal confidential information if there is no statute that makes the interaction privileged? Does the need for a judge or jury to have all the information related to a lawsuit before rendering a decision sometimes outweigh the need for privacy in counseling relationships?

2. Any citizen could file a lawsuit against a mental health professional, and any client could file a complaint with a state licensure board against a counselor. When you hear that a suit or a complaint has been filed against one of your colleagues, what assumptions do you make about that colleague? How would you react if a lawsuit or a complaint were filed against you?

3. The adversarial court system allows two adversaries to argue their positions before an impartial judge or jury. Disputes are resolved by allowing the judge or jury to decide which point of view is going to prevail and which one is not. Counselors feel disputes should be mediated rather than litigated. Can you think of any arguments in favor of the adversarial court system? Could all disputes be resolved through mediation, a process in which both parties agree to a settlement or solution?

4. Counselors who receive subpoenas for court appearances are advised to consult with a lawyer who is committed to their well-being. Why are counselors reluctant to consult with lawyers?

5. Why does a counselor who is not a party to a lawsuit need his or her own lawyer when subpoenaed to appear as a witness?

6. Why is it inadvisable for counselors to rely on advice given to them by lawyers whose positions will be helped by the counselors' testimony? Why should counselors be careful in relying on the advice of attorneys who represent their employers?

7. If you needed legal advice in your role as a counselor today, how would you go about locating an attorney to retain?

8. Assume you have been subpoenaed by the husband of a couple you have been counseling to testify at an upcoming child custody hearing. The wife has forbidden you from revealing any information you have learned in the counseling sessions. You have found a potential lawyer to advise you. How would you conduct yourself at your first meeting with this attorney?

9. Your attorney has advised you not to discuss any details of a legal controversy in which you are involved. The former client who is a party in this lawsuit shows up in the lobby of your office and wants to talk to you. How will you handle this situation?

10. You are embarrassed that you did something with a client in a counseling relationship that could be considered unethical. You are talking to your lawyer about a lawsuit involving this client. What you did seems to have no relevance to the lawsuit. Should you tell your lawyer about this embarrassing incident?

11. Discuss the difference between an expert witness and other witnesses who appear in court.

12. Why should a mental health professional decline to give an expert opinion in court if he or she has not been retained to serve as an expert witness?

13. To what extent do you feel counselors should keep records to document actions they have taken in an effort to protect themselves? How could record keeping interfere with a counselor's clinical effectiveness?

14. One of your clients tells you that her former husband has petitioned a court to have custody of their children transferred from her to him. The client begs you to help her keep this from happening. How will you respond?

Suggested Readings

Hopkins, B. R., & Anderson, B. S. (1990). *The counselor and the law* (3rd ed.). Alexandria, VA: American Association for Counseling and Development. Covers several general topics. Contains sections on civil and criminal liability of counselors plus business practice issues.

Woody, R. H. (1988). *Protecting your mental health practice: How to minimize legal and financial risk.* San Francisco: Jossey-Bass. A section on professional liability includes information on licensing board complaints. Risk management is emphasized.

Woody, R. H. (1989). *Business success in mental health practice.* San Francisco: Jossey-Bass. General business practices are reviewed. A section is included on avoiding ethical, regulatory, and legal complaints.

Wright, R. H. (1981). What to do until the malpractice lawyer comes: A survivor's manual. *American Psychologist, 36,* 1535–1541. Some "do's and don'ts" are offered for mental health professionals who are sued for malpractice. Several practical tips for preventing malpractice are suggested.

Wrightsman, L. S., Willis, C. E., & Kassin, S. M. (1987). *On the witness stand: Controversies in the courtroom.* Newbury Park, CA: Sage. Contains essays for mental health professionals on court testimony issues. Hypnosis, eyewitness accuracy, and expert witness sections are included.

References

American Bar Association. (1983). *ABA guidelines for fair treatment of victims and witnesses in the criminal justice system.* Washington, DC: Author.

Dawidoff, D. J. (1973). Some suggestions to psychiatrists for avoiding legal jeopardy. *Archives of General Psychiatry, 29,* 699–701.

Greenburg, S. L., & Greenburg, J. H. (1988). Malpractice litigation: Fears and facts. *Psychotherapy in Private Practice, 6,* 47–62.

Hiday, V. A. (1983). Are lawyers enemies of psychiatrists? A survey of civil commitment counsel and judges. *American Journal of Psychiatry, 140,* 323–326.

Hopkins, B. R., & Anderson, B. J. (1990). *The counselor and the law* (3rd ed.). Alexandria, VA: American Association for Counseling and Development.

Howell, R. J., & Ogles, B. M. (1989). Psychologist-client privileged communication laws for the fifty states: Duty to report, duty to warn. *American Journal of Forensic Psychology, 7,* 5–24.

Hummel, D. L., Talbutt, L. C., & Alexander, M. D. (1985). *Law and ethics in counseling.* New York: Van Nostrand Reinhold.

Lau, J. A. (1983). Lawyers vs. social workers: Is cerebral hemisphericity the culprit? *Child Welfare, 62,* 21–29.

Liebenson, H. A. (1962). *You, the witness.* Mundelein, IL: Callaghan.

Richards, D. R. (1990). *Building and managing your private practice*. Alexandria, VA: American Association for Counseling and Development.

Russel, R. (1988). Role perceptions of attorneys and caseworkers in child abuse cases in juvenile court. *Child Welfare, 67*, 205–216.

Schutz, B. M., Dixon, E. B., Lindenberger, J. C., & Ruther, N. J. (1989). *Solomon's sword: A practical guide to conducting child custody evaluations*. San Francisco: Jossey-Bass.

Tierney, K. (1970). *Courtroom testimony: A policeman's guide*. New York: Funk & Wagnalls.

Watkins, S. A. (1989). Confidentiality and privileged communications: Legal dilemma for family therapists. *Social Work, 34*, 133–136.

Woody, R. H. (1988). *Protecting your mental health practice: How to minimize legal and financial risk*. San Francisco: Jossey-Bass.

Woody, R. H. (1989). *Business success in mental health practice*. San Francisco: Jossey-Bass.

Wright, R. A. (1981a). Psychologists and professional liability (malpractice) insurance. *American Psychologist, 36*, 1485–1493.

Wright, R. A. (1981b). What to do until the malpractice lawyer comes: A survivor's manual. *American Psychologist, 36*, 1535–1541.

Wrightsman, L. S. (1987). *Psychology and the legal system*. Pacific Grove, CA: Brooks/Cole.

NOTE: State codes should be referenced regarding matters related to licensing, privileged communication, insurance reimbursement, mandatory reporting of suspected child abuse, and other matters determined by state law.

NOTES

"I applaud Dr. Remley and AACD as well for the idea of a series of monographs in dealing with legal issues that will help mental health professionals and counseling students . . . . The style of this monograph is exceptionally clear, and written in such a manner that a reader with little background of legal issues should have no trouble grasping the ideas presented."

Gerald Corey, EdD, Professor and Coordinator of Human Services, California State University, Fullerton.

Theodore P. Remley, Jr., holds a PhD from the Department of Counselor Education at the University of Florida in Gainesville, and a JD in law from The Catholic University of America in Washington, D.C. He is a licensed professional counselor and a National Certified Counselor.

Dr. Remley has served as a school counselor, community college counselor, college student activities director, U.S. Army officer, university career counselor and university counselor educator. In addition, he has maintained private practices in counseling and law.

AACD Order #72020
ISBN #1-55620-077-3
ISSN #1053-9549

American Association for Counseling and Development
5999 Stevenson Ave., Alexandria, VA 22304